S.B.Civil Second Appeal No.115/2006

State of Rajasthan & Ors. vs. Virendra Singh.

Date : 1.5.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. N Mulchandani, Dy.GA, for the appellants.

Mr. Vikram Purohit, for the respondent.

- - - - -

Heard learned counsel for the parties on an application under Order 22 Rule 4 CPC due to death of sole respondent. Learned counsel for the legal representatives of respondent has no objection in allowing the application.

Accordingly, this application is allowed and the legal representatives of sole respondent are taken on record. Amended cause title already filed is taken on record.

At the request of learned counsel for the parties, the appeal is finally heard.

The appellant is aggrieved against concurrent finding of facts recorded by two courts below in judgments and decrees dated 22.7.2002 and 24.2.2005. The trial court granted the decree for perpetual injunction in favour of the respondent/plaintiff which was affirmed by the first appellate court.

It appears from the facts of the case that the plaintiff filed suit for injunction on the ground that the plaintiff is owner of the property in dispute as he was

granted patta for the land in dispute by the then Jagirdar on 13.12.1955 in the patta file no.201/55. The said property was partitioned also and the plaintiff is in possession of the property which came in his share. The patta was also produced even before Jagir Commissioner for which there were entries made in the Register. The appellants wanted to evict the plaintiff from the land in dispute, therefore, the plaintiff filed the suit for injunction.

The suit was contested by the appellants and it was contended that if any patta was issued in the year 1955, then the plaintiff cannot claim possessory title, however, during the course of arguments before the two courts below, it was stated that the patta was granted after resumption of Jagirs. Moreover, both the courts below, in the light of the decision given by this Court in the case of Bhool Singh vs. State of Rajasthan (S.B. Civil Writ Petition NO.3815/1999) and held that the patta is valid and Jagir was resumed in 1956.

In view of the above concurrent finding of fact and law, no substantial questions of law are involved in this appeal.

Accordingly, the appeal of the appellants, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya